

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No.

TELEMUNDO NETWORK GROUP LLC, a
Delaware limited liability company,

Plaintiff

v.

ELITE SPORTS AGENCY, LLC, a Florida limited
liability company, and PUBLICIDADES USA
INC., a Florida Corporation,

Defendants

DECLARATION OF ELI VELAZQUEZ

I, ELI VELAZQUEZ, under penalty of perjury and pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am Executive Vice President, Sports, Hispanic Enterprises & Content, for NBCUniversal Media, LLC, which is the parent company of the plaintiff in this case, Telemundo Network Group LLC (“Telemundo”). Telemundo is the second largest provider of Spanish content in the United States, delivering content that includes news, entertainment, and sports aimed at the Hispanic and Latino American audiences in the United States and worldwide. I oversee the sports programming carried by the Telemundo broadcast network and its affiliated cable network, Universo. I have been employed by Telemundo in this role and other roles overseeing sports programming and production since 1999. I submit this declaration in support

of Telemundo's application for a temporary restraining order and preliminary injunction. I am familiar with the facts herein and make this declaration from my personal knowledge.

2. In 2011, Telemundo acquired from the Fédération Internationale de Football Association ("FIFA") the exclusive license to broadcast the games of the 2018 and 2022 men's World Cup Finals ("World Cup") in the Spanish language in the United States. The World Cup, along with the Olympics, is one of the premier international sporting events in the world, watched by billions of people worldwide. Telemundo has spent a great deal of time, effort and money to promote its upcoming coverage of the World Cup and ensure that viewers know that Telemundo will be the Spanish-language home of the World Cup on television in the United States.

3. After acquiring the 2018 and 2022 World Cup rights, Telemundo also acquired the Spanish-language broadcast rights to certain qualifying games for teams from nations in the CONCACAF region of FIFA, which covers North and Central America, and the Caribbean. These qualifying games are incredibly important to soccer viewers generally, and especially to fans of the national teams involved – such as team USA, Mexico, Panama, Honduras, Costa Rica, and Trinidad & Tobago – because they determine which teams will play in the World Cup, soccer's biggest showcase. In particular, CONCACAF qualifying games are very popular with Spanish-language viewers in the United States. Telemundo's ability to air these games is vital to Telemundo – not just because the qualifying games achieve high television ratings in their own right, but also because airing these games:

- (a) provides invaluable promotion for Telemundo's upcoming coverage of the World Cup;

- (b) contributes significantly to developing Telemundo's reputation as the Spanish-language home of the World Cup on television in the United States of America;
- (c) generates goodwill among the large number of Spanish-speaking and football-loving persons who live in the United States of America; and
- (d) is critical to the success of Telemundo's efforts to continue building and maintaining its brand and reputation among the Hispanic and Latino American population of the United States of America.

4. Telemundo acquired its broadcast rights to CONCACAF qualifying games in a transaction with Traffic Sports USA ("Traffic") and Media World, LLC ("Media World"). The rights that Telemundo acquired include all CONCACAF qualifying games except Canada, Mexico and USA home games. On information and belief, Traffic and Media World are marketing agencies that have been in the business of acquiring and reselling the broadcast rights to sporting events for many years. In this instance, it is my understanding that Traffic and Media World each acquired rights to CONCACAF qualifying games from the regional soccer associations within CONCACAF: the North American Football Union, the Union Centro Americana de Futbol and the Caribbean Football Union (the "CFU"). In turn, I am aware that these regional associations derive their rights from the national associations that make up their membership. Traffic and Media World then partnered to sell those rights to broadcasters, including Telemundo. Telemundo negotiated with Traffic and Media World in good faith, agreed to pay more than \$30 million to buy the broadcast rights for the CONCACAF qualifying games leading up to the 2018 World Cup, and ultimately entered a detailed, written contract with them

in December 2014 (the “Telemundo Agreement,” and copy of which, redacted to preserve the confidentiality of financial terms, is attached as Exhibit A).

5. Telemundo already has paid almost three quarters of the rights fee agreed upon in the Telemundo Agreement. The next payment under the agreement, of several million dollars, is due on March 31, 2017.

6. The exclusive Spanish-language broadcast rights that Telemundo acquired in the Telemundo Agreement included the rights to the following games to be played in Trinidad:

Trinidad vs. USA on November 17, 2015

Trinidad vs. Guatemala on September 2, 2016

Trinidad vs. Costa Rica on November 11, 2016

Trinidad vs. Panama on March 24, 2017

Trinidad vs. Mexico on March 28, 2017

Trinidad vs. Honduras on September 1, 2017

Trinidad vs. USA on October 10, 2017.

7. The national association governing soccer in Trinidad is the Trinidad & Tobago Football Association (“TTFA”), which is a member of the CFU. I have reviewed a copy of the contract between the TTFA and the CFU for the transfer of the broadcast rights to the CONCACAF World Cup qualifying home games of the Trinidad National Team, and that contract is attached as Exhibit B. I have also reviewed a copy of the contract between the CFU and Traffic, and that contract is attached as Exhibit C.

8. Within a short time after the Telemundo Agreement was signed, Telemundo’s acquisition of the rights to CONCACAF qualifying games was widely known among those involved in the business of sports or the television industry. In addition, Telemundo made high-

profile public statements about its acquisition of CONCACAF qualifying game rights. For example, Telemundo discussed and promoted its acquisition of the rights in the May 2015 “upfront” presentation made by Telemundo to hundreds of advertisers and ad agencies, for the purpose of persuading them to make advance purchases of airtime on Telemundo in the upcoming television season. Telemundo’s acquisition of CONCACAF qualifier rights was covered in the trade and mainstream press in both the English and Spanish languages.

9. Since 2015, Telemundo has continued to promote its coverage of CONCACAF qualifying games, including games to be played in Trinidad. For instance, on November 11, 2016, Telemundo (via its affiliated cable network, Universo) broadcast the CONCACAF qualifying game in Trinidad between the Trinidadian and Costa Rican teams. On the eve of that game, Telemundo issued a press release highlighting Telemundo’s broadcast of the game in Trinidad, as well as its “extensive” and “most complete” coverage of the CONCACAF qualifying games in general. A copy of Telemundo’s press release is attached as Exhibit D and is available at <http://www.nbcuniversal.com/press-release/telemundo-deportes-announces-most-complete-coverage-final-round-2018-world-cup>.

10. In May 2015, five months after Telemundo signed the Telemundo Agreement, a former high-level executive of Traffic, and the former president of the CFU, along with 25 other individuals, were indicted by U.S. federal prosecutors in connection with alleged corruption by officials of FIFA, including CONCACAF, in various transactions involving soccer tournaments and sales of rights to games. Also in May 2015, federal prosecutors announced that Traffic had pleaded guilty to criminal charges in connection with the FIFA investigation. I am informed and believe that Traffic has cooperated with the Government’s continuing investigation into FIFA-related corruption.

11. In December 2015, federal prosecutors released a superseding indictment that charged additional individuals in corruption related to FIFA. Prosecutors also announced that the former executive of both Traffic and Media World, and the former president of the CFU, as well as the CEO of Media World, each had pleaded guilty to criminal charges in connection with the Government's FIFA investigation.

12. No one associated with Telemundo was charged or even mentioned in the indictment or superseding indictment filed by federal prosecutors. At the time it purchased the Content Rights in good faith and for tens of millions of dollars in value, Telemundo was not aware of any allegations of wrongdoing by anyone at Traffic, Media World or CFU. Telemundo negotiated the Telemundo Agreement with Traffic and Media World at arms' length.

13. To the best of my knowledge, the FIFA-related proceedings did not result in any determination by a court or U.S. authorities that would render invalid Telemundo's license to broadcast the CONCACAF qualifying games in Trinidad. As far as I know, no court in **any** jurisdiction has ruled that any contract that licensed or transferred broadcast rights for any Trinidad home games is invalid or unenforceable for any reason. Neither the defendants in this case nor anyone else has brought to Telemundo's attention any evidence that such a court ruling exists.

14. The charges brought against the former CFU president, Traffic, and the Traffic and Media World executives were widely publicized throughout the world after being announced by U.S. authorities in 2015. But until February 9, 2017, neither the defendants in this case nor anyone else suggested to Telemundo that its license to broadcast CONCACAF qualifying games, including the Trinidad home games, was invalid or unenforceable in any respect. Nor did anyone

tell Telemundo about any alleged defect in the chain of title whereby Traffic or Media World acquired the rights they sold to Telemundo in the Telemundo Agreement.

15. As mentioned above, on November 11, 2016, Telemundo broadcast (via its affiliated cable network Universo) the Trinidad vs. Costa Rica CONCACAF qualifying game. Telemundo also broadcast (via its affiliated cable network, Universo) the home qualifying games of the Trinidad men's national team against the USA on November 17, 2015, and against Guatemala on September 2, 2016. These three games were among the games for which Telemundo acquired exclusive broadcast rights pursuant to the Telemundo Agreement among Telemundo, Traffic and Media World in 2014. Telemundo and Universo broadcast those three games without any objection from the defendants, the TTFA or any other party. At no time before, during or after those broadcasts did anyone question Telemundo's right to exclusively broadcast any of those three games.

16. On February 9, 2017, I received an email from Ylan Singer, the CEO of defendant Elite Soccer Agency. I was not acquainted with Mr. Singer before I received his email. Mr. Singer's email stated that he was writing to inform me that Elite had "acquired from TRINIDAD AND TOBAGO" the "worldwide" rights to all of the remaining CONCACAF qualifying games to be played in Trinidad during the 2018 World Cup cycle, namely the games between Trinidad and Panama, Mexico, Honduras and USA that I listed above. Mr. Singer's email acknowledged "we understand you could be surprised by this notification due [sic] that previously those rights were distributed and sold by TRAFFICC [sic]" but that "all previous contract are [sic] not valid anymore." Mr. Singer added, "We respect that you are the broadcaster that had acquired those rights but at the moment those games will need to be renegotiated with our company, we are open to reach a new agreement in order for you to show the games you previously had."

17. Mr. Singer attached to his email documentation from the Trinidad & Tobago Football Association (“TTFA”), which was dated February 7, 2017. These TTFA documents stated that due to unspecified “significant irregularities in the process of the World Cup Qualifying TV Rights by The Caribbean Football Union to TRAFFIC and TRAFFIC’s subsequently [sic] sale of same to broadcasters: The TTFA has decided to license the rights to ELITE SOCCER AGENCY LLC and therefore all previous arrangements and/or alleged agreements are not valid. ELITE SOCCER AGENCY LLC will have the sole and exclusive transmission rights, any deal signage rights and any placement of cameras at all games being granted to the licensee herein.” Mr. Singer’s February 9, 2017 email to me and the documents attached to it are attached to this declaration as Exhibit E.

18. Although the TTFA referred in its document to “significant irregularities” in the sale of broadcast rights for the Trinidad CONCACAF qualifying games, the TTFA has never, to Telemundo’s knowledge, challenged in court the enforceability of any contract for the sale of those rights, nor has the TTFA returned the consideration it received for those rights or legally rescinded any contract for the sale of those rights.

19. Naturally, I was puzzled by Mr. Singer’s email, since Telemundo had bought and paid for the exclusive rights to these qualifying games pursuant to the Telemundo Agreement that we signed in December 2014. Until I received Mr. Singer’s email, no one had suggested to Telemundo that its rights were invalid – even when Telemundo broadcast the Trinidad vs. Costa Rica game in November 2016. I called Mr. Singer. On that call, Mr. Singer did not provide any evidence to support his position that Telemundo’s exclusive license to the Trinidad games was no longer valid. I told Mr. Singer that I needed to review his claims with my organization since it

was new information and because, as he could imagine, it was my understanding that the rights to the matches in question already belonged to Telemundo.

20. In addition, two in-house lawyers at NBCUniversal, Telemundo's parent company, named Brett Goodman and Erik Bierbauer reached out to a lawyer named Josh Markus who represents Traffic, one of the two parties that Telemundo had contracted with in the Telemundo Agreement in 2014. Traffic's lawyer explained that the TTFA was in a dispute with Traffic, Media World and the CFU, to which the TTFA had transferred the broadcast rights to the Trinidad qualifying games in 2012. Traffic's lawyer said that TTFA was asking CFU for more money for the rights that the TTFA already had transferred in 2012, he expected the dispute to be resolved shortly, and Telemundo still owned the license to broadcast the games to be played in Trinidad.

21. On February 15 and 16, 2017, I received two emails from Santiago Martinez of Nexus Sports, whom I knew from past contacts in the sports television business. Mr. Martinez urged me to contact Mr. Singer about the rights to the Trinidad games, because Mr. Martinez had begun shopping those rights to broadcasters on Mr. Singer's behalf and there was a lot of interest in them. A copy of Mr. Martinez's February 15 & 16, 2017 emails, along with a translation of them from Spanish to English, is attached as Exhibit F.

22. NBCUniversal's in-house counsel also communicated again with Traffic's lawyer, who confirmed that Traffic had sent letters to other broadcasters, including Telemundo's chief competitor, Univision, to inform them that the rights for the qualifying games in Trinidad were not properly up for sale.

23. I received two more emails from Mr. Singer on February 22, 2017, to which he again attached the documentation from TTFA purporting to grant Elite the authority to sell the

rights that Telemundo already had bought and paid for. Mr. Singer stated in his email that he hoped we could reach an agreement on the rights, or else he would sell them to another network. Copies of Mr. Singer's February 22, 2017 emails and attachments, along with a translation from Spanish to English, are attached as Composite Exhibit G.

24. On February 24, 2017, I received an email from Francisco Salcedo, president of defendant Publicidades USA ("Publicidades"). Mr. Salcedo's email said that his firm was "retained by the TTFA for the marketing of the remaining home games of the Trinidad & Tobago men national team, qualifiers to the World Cup Russia 2018," and stated that the president of the TTFA, David John-Williams, wished to meet with me in Miami. A copy of Mr. Salcedo's February 24, 2017 email is attached as Exhibit H. Around the time that I heard from Mr. Salcedo, I learned that the TTFA had told the production company that was producing the broadcast of the Trinidad and Tobago home games on March 24 and 28, 2017 that TTFA intended to deny the production company access to the stadium in Port of Spain, Trinidad. The production company's work at the stadium is necessary for Telemundo to broadcast the games.

25. I responded to Mr. Salcedo in an email on March 1, 2017. I stated that I would be happy to meet with Mr. John-Williams, but that Telemundo had acquired the rights to Trinidad qualifying games in December 2014 and that we rejected any suggestion that the TTFA could somehow still market those games. A copy of my March 1, 2017 email to Mr. Salcedo is attached as Exhibit I.

26. Since I did not hear back from either Mr. John-Williams or Mr. Salcedo, I emailed a letter to Mr. John-Williams on March 3, 2017, copying Mr. Singer and Mr. Salcedo. In the letter, I reiterated that Telemundo had purchased the rights to the qualifying games in Trinidad in good faith and for valuable consideration back in 2014. I asked for assurances that

the TTFA, Elite and Publicidades would recognize Telemundo's rights, cease any effort to resell or market the rights, and not take any action (or inaction) that would interfere with Telemundo's ability to exercise its rights. A copy of my March 3, 2017 letter is attached as Exhibit J.

27. Mr. John-Williams responded to my March 3, 2017 letter that night with a very brief email asserting "the TTFA does not have any contract with your company as it relates to television rights." He copied Mr. Salcedo and Mr. Singer on this response, a copy of which is attached as Exhibit K.

28. Telemundo's counsel in Trinidad followed up with a detailed letter to Mr. John-Williams on March 4, 2017, which is attached as Exhibit L. On March 7, 2017, the TTFA's counsel in Trinidad asked for more time to respond to the letter from Telemundo's Trinidad counsel. Neither Elite, nor Publicidades, nor the TTFA has made any substantive response to my letter of March 3, 2017 or the letter that Telemundo's counsel sent the next day. On March 7, 2017, lawyers for the TTFA responded to the letter that Telemundo's counsel had sent to the TTFA on March 4, 2017, but only to say that they needed more time to respond to our counsel's letter because the president of the TTFA was traveling in London.

29. On March 9, 2017, in a final effort to try to avoid litigation, I emailed copies of Telemundo's previous correspondence with Mr. John-Williams and the TTFA's counsel in Trinidad to a list of addresses that I understand represents the entire Executive Committee of the TTFA. A copy of my March 9, 2017 email is attached as Exhibit M.

30. On March 10, I received an email from a member of the TTFA executive committee, Linus Sanchez, stating that at the TTFA's annual general meeting in November 2016, "it was unanimous among all members present that President David John Williams maximize the full potential of our current TV rights contract exploring all existing facets based on the history

of how it was awarded to the relevant party.” A copy of this email is attached as Exhibit N.

31. Telemundo’s attorneys followed up in a letter dated March 10, 2017, in which they confirmed a discussion that they had with the TTFA’s attorneys, noted that no response had been received and advised that they had been instructed to file proceedings unless they received a response by noon on March 11, 2017 that addresses all of Telemundo’s concerns and eliminates all need for litigation. The TTFA’s attorneys responded on March 11, 2017 but did not provide the information that had been requested, and instead asked Telemundo’s attorneys for a copy of Telemundo’s agreement with Traffic and indicated that Mr. John-Williams’ time abroad had been extended. Telemundo’s attorneys replied the same day and provided a copy of the agreement but indicated that they would not extend the time for the TTFA’s response any further. Copies of these letters exchanged between Telemundo’s attorneys and the TTFA’s attorneys are attached as Exhibit O.

32. Telemundo will suffer irreparable harm if the defendants, Elite and Publicidades, are allowed to resell the rights to the remaining CONCACAF qualifier games to be played in Trinidad. Telemundo bought the rights in an arms’ length, good faith transaction more than two years ago. The dates of the next two games – Panama vs. Trinidad on March 24, and Mexico vs. Trinidad on March 28 – are approaching quickly. We have been promoting those games and our coverage of them. We expect both games to be among the most exciting qualifiers for Telemundo’s U.S. audience, and that the television ratings for both games will be strong.

33. Moreover, Telemundo has widely promoted the fact that it has the most extensive Spanish-language coverage in the U.S. of the CONCACAF qualifying games. Our coverage of these games is central to our goal of becoming the go-to television destination for the ardent fans of CONCACAF soccer, many of whom are in the hard-to-reach demographic of U.S. males ages

18-49 who are Spanish-dominant or bilingual. To draw attention to our CONCACAF qualifiers coverage, we launched a promotional campaign on broadcast and social media platforms, #RumboAlMundial (“Road to the World Cup”). We specifically designed and timed the campaign to boost the exposure of Telemundo’s CONCACAF qualifier coverage this month, in the run-up to the games on March 24 and 28 that defendants have now threatened, unlawfully, to take away from Telemundo and sell to our competitors.

34. If the defendants are allowed to sell the rights to the upcoming Trinidad games to a competitor of Telemundo, then, at a minimum, Telemundo would lose the benefit of the exclusive license that we paid for. Telemundo would no longer be the only network where the U.S. audience would be able to watch the games in Spanish. Given that we have promoted Telemundo as the sole home of these games in the Spanish language, this would cause Telemundo to suffer severe reputational harm that cannot be repaired. Telemundo would suffer even more severe, irreparable harm if the defendants were allowed to go a step further, and prevent us from broadcasting the games at all. After promoting our coverage of the CONCACAF qualifiers as the most extensive and complete Spanish-language coverage in the U.S., our inability to broadcast these crucial games in Trinidad would be tantamount to breaking a promise to Telemundo’s viewers. They may tune out of Telemundo’s CONCACAF qualifiers coverage altogether. They may even grow skeptical of Telemundo’s ability to deliver high-quality and dependable coverage of the 2018 World Cup, in which Telemundo has invested hundreds of millions of dollars.

35. Telemundo’s coverage of the upcoming games in Trinidad, and other CONCACAF qualifying games, is vital to Telemundo’s overall business strategy. Like other television networks, Telemundo derives most of its revenue from advertising. Our ability to sell

advertising spots, and the amounts that we can charge for spots, is dependent on our television ratings (*i.e.*, the number of viewers in the target demographics who watch our programming) and on the size and composition of our audience relative to our competitors. For most of its existence, Telemundo's ratings trailed those of its rival, Univision. In 2016, Telemundo significantly narrowed its ratings gap with Univision, and pulled ahead of Univision in weeknight primetime (*i.e.*, Monday to Friday, 8 to 11 p.m.) ratings in many weeks of the year. The Trinidad games and other CONCACAF qualifying games are an important means for Telemundo to sustain this competitive momentum. Indeed, the March 28 game in Trinidad will be broadcast on the Telemundo network during primetime on a weeknight, and will be a centerpiece of Telemundo's programming on that night. If Telemundo is unable to broadcast that game because of defendants' unlawful conduct, it will be a lost business opportunity that Telemundo never can recover. The March 24 game will be broadcast on our Universo cable network, and is similarly important to our business strategy to build up Universo as a TV destination for Hispanic and Latino sports fans.

36. In addition, as the games on March 24 and 28 approach, and defendants' unlawful conduct casts uncertainty over whether Telemundo will be able to broadcast them, it will become harder and harder for Telemundo to ensure that its broadcasts of these games – if they occur at all – will be of the very high quality that Telemundo and its viewers expect. Based on my experience in sports broadcasting, the third-party production company engaged by Traffic will need to have full access to the stadium about one week before the March 24 game to reasonably prepare to produce the broadcast. For its part, Telemundo is already assembling a team of six announcers and a crew of more than twenty other production and technical specialists to travel to Trinidad for Telemundo's broadcast of the Trinidad vs. Mexico game on March 28, at a cost of

around \$290,000. This is a significant undertaking for Telemundo, and each day that defendants refuse to recognize Telemundo's rights to broadcast the games makes it more difficult for Telemundo to prepare.

37. For this case, I have reviewed public information about Telemundo's financial statements. Telemundo's revenue in 2016 exceeded USD600 million. Telemundo is wholly owned by NBCUniversal Media, LLC, one of the largest media and entertainment companies in the U.S., with assets of approximately \$68 billion. NBCUniversal's financial statements for 2016 may be viewed at <http://www.cmcsa.com/secfiling.cfm?filingID=1193125-17-30512>.

Dated: March 13, 2017
Hialeah, Florida



Eli Velazquez